

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JOSEPH BEAN, §
TDCJ-CID NO.1141587, §
Plaintiff, §
v. § CIVIL ACTION NO. H-09-3988
§
CO WYSINGER "MAC," §
Defendant. §

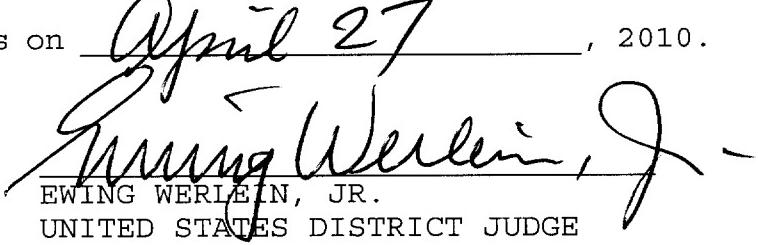
MEMORANDUM AND ORDER ON DISMISSAL

Plaintiff in the above-referenced civil rights action seeks voluntary dismissal of his complaint pursuant to Rule 41(a) of the Federal Rules of Civil Procedure. A court exercising its discretion in considering a voluntary dismissal must follow the traditional principle that dismissal should be allowed unless the defendant will suffer some plain prejudice other than the mere prospect of a second lawsuit. See LeCompte v. Mr. Chip, Inc., 528 F.2d 601, 604 (5th Cir. 1976); Holiday Queen Land Corp. v. Baker, 489 F.2d 1031, 1032 (5th Cir. 1974). No such prejudice has been shown in the instant case.

Accordingly, it is ORDERED that plaintiff's motion to dismiss (Docket Entry No.15) is GRANTED. This case is DISMISSED without prejudice. All pending motions, if any, are DENIED.

The Clerk of Court will send a copy of this Order to the plaintiff.

SIGNED at Houston, Texas on April 27, 2010.


EWIN WERLEIN, JR.
UNITED STATES DISTRICT JUDGE